

1-1-1982

Washington report, vol. 11 no.6, April 5, 1982

American Institute of Certified Public Accountants.

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Recommended Citation

American Institute of Certified Public Accountants., "Washington report, vol. 11 no.6, April 5, 1982" (1982). *Newsletters*. 827.
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AICPA *Washington Report*

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COMMODITY FUTURES TRADING COMMISSION

A measure intended to extend the life of the CFTC, S. 2109, was favorably reported out of the Senate Agriculture Committee on 3/31/82. The bill does not provide for users fee nor does it provide a private right of action. The committee bill is essentially the same measure reported out by the Senate Agriculture General Legislation Subcommittee on 3/25/82. The bill authorizes the CFTC to continue operations through 9/30/84. Key provisions of the reauthorization bill approve the jurisdictional accord between the CFTC and the SEC over hybrid financial futures, such as stock index options. Additionally, S. 2109: repeals the ban on agricultural options; slightly expands the role of the states in commodity regulation; provides for limited judicial review by a U.S. Court of Appeals of CFTC emergency orders; greater information sharing between the CFTC and other federal agencies; and, more defined requirements for disclosure of confidential information. Further, the measure requires the CFTC to complete reviews of proposed contracts within one year.

DEFENSE, DEPARTMENT OF

The creation of a statutory inspector general in the Defense Department is again the subject of congressional legislation. S. 2274, introduced on 3/24 by Sen. William V. Roth (R-DE), provides the Defense IG would be under the authority, direction and control of the Secretary of Defense. The provision had been sought by DOD officials who maintained that having an "independent" IG would be inconsistent with the commander-subordinate relationship inherent in a military organization. The legislation also features a provision allowing the Secretary of Defense to "veto" investigations and audits by the DOD inspector general when national security is threatened. Under this provision, once the Secretary determines that the IG should be prohibited from initiating or carrying out an audit or investigation he would be required to report to Congress within 30 days and detail the reasons for this action. A similiar bill in Congress that would expand the provision of the Inspector General Act of 1978 to DOD, Justice and Treasury is H.R. 2098, sponsored by House Government Operations Chairman Jack Brooks (D-TX). It would require each of these agencies to create an independent inspector general position, and would consolidate much of their internal investigative resources in the IG's office. H.R. 2098 passed the House 5/19/81. This legislation, along with S. 2274, were the subjects of a 3/25 Senate Governmental Affairs hearing.

ENERGY, DEPARTMENT OF

The Energy Department has lost control of over \$200 million in government property because of faulty accounting and recordkeeping, according to the GAO. According to testimony from Comptroller General Charles Bowsher at a 3/31/82 hearing held by the House Government Operations Subcommittee on Energy, the study begun in 11/81 found continuing weaknesses in the department's internal controls over collections and disbursement, management of grant funds, and contract administration. Of DOE's 23 accounting systems, only one has been approved in recent years. Attempts at uniform controls are difficult due to the department's decentralized accounting systems. GAO found \$11.5 million in excess cash advances to grant recipients because DOE does not quickly recover excess cash or the interest earned on the excess. Further, the department needs to improve its management of contractors, particularly with regard to property control and auditing. Contractors buy millions of dollars of equipment which becomes federal property, but DOE's methods of recording and keeping track of that property are ineffective. Mr. Bowsher stated the department has made a number of reforms in grant administration and property management since the subcommittee's 11/81 report. He added his review will continue, but that internal controls and financial management must be given priority by senior officials at DOE.

FEDERAL TRADE COMMISSION

Chairman James C. Miller in testimony on 4/1/82, conditioned the strength of his opposition to a legislative exemption for professionals from FTC jurisdiction if Congress approves his proposals to redefine the agency's consumer protection jurisdiction. Testifying before the Commerce, Transportation and Tourism Subcommittee of the House Energy and Commerce Committee on reauthorization of the FTC, Chairman Miller linked the two issues and read a letter from OMB Director David Stockman, stating administration support for Miller's positions. Chairman Miller said if Congress does not adopt his proposal to redefine the Commission's consumer protection jurisdiction, he would not strongly oppose legislative exemption of professionals. Provisions to exempt state regulated professionals, including accountants, are included in S. 1984 and H.R. 3722 and were strenuously opposed by Chairman Miller in testimony earlier this month (see the 3/22/82 Wash. Rpt.).

OFFICE OF FEDERAL PROCUREMENT POLICY

A proposal intended to transfer the functions of the past Cost Accounting Standards Board to the Office of Procurement Policy was approved by the House Banking Subcommittee on Economic Stabilization in a 3/4/82 mark-up session. The proposal, which is an amendment to H.R. 5540, a bill that extends the Defense Production Act, would give OFPP the authority to issue new cost standards, to amend and rescind existing standards, and to exempt contractors and subcontractors from the requirements of the standards. Under the proposal, offered by Rep. Norman D'Amours (D-NH), any new standards or modifications of current standards would have the same effect of law as they presently do. The CASB was set up in 1971 in order to bring uniformity and consistency to the cost accounting principles followed by defense contractors and subcontractors under federal contracts. Since 1981, when Congress stopped providing funds for the board, an office within the General Accounting Office has been monitoring compliance with the CAS promulgations. However, the GAO has no authority to amend the CAS or issue exemptions from them. Efforts to transfer CAS functions to the executive branch have been made in the past, but failed due to lack of consensus. According to OFPP sources, OFPP would prefer the CAS to be included in the new Federal Acquisition Regulations. Additionally included in Rep. D'Amours amendment is an increase in the threshold contract price for applicability of the standards from \$100,000 to \$500,000. Presently, the legislation is not scheduled for full committee action.

PENSION BENEFIT GUARANTY CORPORATION

Plan termination insurance premiums for single employer defined benefit pension plans will rise to \$6 per participant next year if Congress approves the premium increase request authorized by the PBGC's Board of Directors on 3/31/82. Under ERISA, any premium increase must be approved by Congress. The current rate is \$2.60 per participant and has been since 1978, when the rate was increased from \$1 per participant. The multiemployer plan premiums of \$1.40 per participant is unaffected by the Board's action.

SMALL BUSINESS ADMINISTRATION

James C. Sanders was confirmed by the Senate on 3/29/82, to be the Administrator of the Small Business Administration. Mr. Sanders was nominated by President Reagan to fill the vacancy created by the resignation of Michael Cardenas. According to a Senate press release, the Senate Committee on Small Business met and voted unanimously on 3/25/82, to report the nomination to the full Senate. Committee Chairman Lowell Weicker (R-CT) noted that, "In our hearing, Mr. Sanders expressed his commitment to maintaining an independent SBA that effectively serves the needs of the small business community." Prior to his confirmation, Mr. Sanders was the Associate Administrator for Management Assistance at SBA.

TREASURY, DEPARTMENT OF

Statistics on determination letters issued for employee benefit plans for the periods 1/81 through 9/81 and calendar year 1981 were recently released by the IRS. The plan determination letters issued under ERISA include information on defined contribution and defined benefit plans, categorized for each quarter, except January through March. The figures reflect only determination letter activity and cannot be used to measure total plans in existence, since not all employers apply for advance determination to obtain tax benefits.

An automated system for maintaining taxpayer representative information, called the Centralized Authorization File (CAF), was recently proposed by the IRS (see the 3/31/82 Fed. Reg., pp. 13533-35). The system will enable IRS personnel to quickly determine whether a taxpayer has authorized a representative to act on his behalf and, if so, the extent of that authority. Under the proposed system, each representative filing documents under the conference and practice requirements will be assigned a unique identification number. This system will expedite mailing of refunds, notices and other correspondence by automatically directing them to authorized representatives. The IRS will request that the CAF identification number be used by the taxpayer representative on all correspondence concerning any taxpayer he may represent once CAF has been implemented. The proposal would amend the IRS Statement of Procedural Rules at 26 CFR Part 601. Comments on the proposal are requested by 6/1/82. For additional information contact Carolyn Swift at 202/566-3458.

SPECIAL: AICPA TESTIFIES ON COMPLETED CONTRACT METHOD OF ACCOUNTING

James Bushman, CPA, Chairman of the Tax Accounting Subcommittee of the AICPA Federal Tax Division recently testified before the House Ways and Means Committee in support of continued use of the completed contract method of accounting. Stating that the method is one that is easily understood, widely used and accepted for federal tax purposes for over 60 years, Mr. Bushman opposed any proposal to eliminate or severely restrict the use of the completed contract method. Responding to Treasury proposals which suggest that the percentage of completion method of accounting for long term contracts is a better measure of income and is preferred under GAAP, Mr. Bushman noted that the inference is incorrect since there are clear differences in objectives and standards for financial statement and tax reporting. That difference was clearly recognized in the Thor Power Tool decision, according to Mr. Bushman. He further stated that the Treasury's proposal paints an invalid picture with a worst case scenario in justifying the elimination of the completed contract method. Concluding that completed contract "properly reports the taxable income of taxpayers involved in highly competitive industries that are subject to significant business risks and uncertainties..." and that the "Treasury proposal is ill-conceived and so loosely worded and broad based as to sweep within its ambit taxpayers who have never used any special accounting methods...for long term contracts."

SPECIAL: SENATE HOLDS HEARING ON PERISA PROPOSALS

The establishment of reporting and disclosure requirements and fiduciary standards by the federal government for state and local government retirement plans was considered at a 3/29/82 Senate Finance Subcommittee on Savings, Pensions and Investment Policy hearing. Proponents of federal regulation of state and local pension plans argued that the proposed Public Employee Retirement Income Security Act (PERISA) is needed to put such regulation into effect. The two PERISA bills discussed at the hearing are S. 2105 and S. 2106, introduced in February by Sen. John Chafee (R-RI) and are identical to H.R. 4928 and H.R. 2929, introduced by Reps. John Erlenborn (R-IL) and Phillip Burton (D-CA), respectively. Both Senate bills would require public plans to comply with basic reporting and disclosure

and fiduciary standards and would provide an exemption from reporting and disclosure, bonding and certain civil enforcement provisions, if a state or political subdivision has established substantially equivalent standards for public plans within its jurisdiction. S. 2105, modeled after Rep. Erlenborn's bill, would provide that governors could certify that their state laws meet minimum federal standards, while S. 2106, modeled after Rep. Burton's bill, would delegate certification authority to the Secretary of Labor. S. 2105 would also establish a separate agency, the Employee Benefits Administration, to administer the federal regulation of pension plans. According to Sen. Chafee, establishing reporting and disclosure standards is important because public plans do not fully disclose important information on benefit costs and the financial condition of plans to participants. Fiduciary standards must be established because the investment and management practices of many plans are inadequate to safeguard assets. Among the various witnesses testifying who favored legislation, S. 2106 was preferred, since it would not require the establishment of a new agency.

SPECIAL: SINGLE AUDIT CONCEPT SUPPORTED IN TESTIMONY ON H.R. 4133 AND H.R. 4835

Cornelius E. Tierney, Chairman of the AICPA Task Force on Guidelines for Financial and Compliance Audits of Federally Assisted Programs, testified in support of the application of the single audit concept, but recommended that "Congress allow sufficient time to develop and analyze the advantages and disadvantages associated with implementing the single audit before passing any legislation mandating its use." He stated that, "We believe there are a number of administrative problems associated with implementing the single audit concept such as, the lack of an adequate definition of the entity to which a single organization-wide audit applies, the absence of sufficient and consistent guidance in available audit guidelines and the absence of criteria for evaluating compliance with applicable laws and regulations." Mr. Tierney also suggested that Congress consider the effect of the proposed legislation on small and minority firms as defined in Public Law 95-507, since such firms currently perform many of the individual grant audits and should be used "to the fullest extent practicable in performing single audits." Although recommending that legislation not be passed at this time, he provided some suggested technical language revisions for H.R. 4133 and H.R. 4835, which would assist Congress in avoiding unnecessary conflicting or duplicative accounting, auditing and reporting requirements.

SPECIAL: MARKEY AMENDMENT TO AT&T BILL APPROVED IN MARK-UP

An amendment directing the Federal Communications Commission to design a system of accounts, records and memoranda offered by Rep. Edward J. Markey (D-MA) was approved by the House Energy Subcommittee on Telecommunications, Consumer Protection and Finance in a 3/25/82 mark-up session. The amendment to H.R. 5158, the "Telecommunications Act of 1982," is as follows: "The Commission shall enter into a contract with a person which is not affiliated with any common carrier to design such a system of accounts, records, and memoranda. Such system shall be completed and prescribed by the Commission not later than 2 years after the effective date of this section." The measure has not yet been scheduled for full committee mark-up.

For additional information, please contact Jim Kovakas, Gina Rosasco,
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